

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Scott Fergusson  
Serial No.: 09/917,447  
Filed: July 27, 2001

Examiner: Linda Krisciunas  
Group Art Unit: 3623  
Docket No.: 1137.1102101  
Confirmation No.: 9699

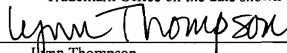
Title: METHODS AND SYSTEMS FOR PROVIDING A MEASURE OF SUPERVISION  
OVER THE ACTIVITIES OF REPRESENTATIVES OF A BUSINESS

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
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I hereby certify that this paper is being electronically transmitted to the United States Patent and Trademark Office on the date shown below.

  
Lynn Thompson

May 18, 2007  
Date

Applicants submit that the Examiner's rejections contain at least the following clear errors and/or omissions of one or more essential elements needed for a *prima facie* rejection.

As an initial point, Applicants note that the final Office Action mailed March 26, 2007 appears to be a duplicate of the Office Action mailed August 29, 2006, with no new comments. In response to the August 29, 2006 Office Action, Applicants submitted a response filed November 28, 2006 containing nine pages of specific arguments. The Examiner has not responded to any of these arguments. The following is a summary of the arguments Applicants presented on pages 9-15 of the November 28, 2006 response. Applicants submit that in view of the lack of response by the Examiner and the failure of the Examiner to meet the essential elements for a *prima facie* rejection, all rejections should be withdrawn.

The rejection of claims 1, 6-8, 12, 13, and 29 as being anticipated by Maloney et al. in view of Musafia et al. is in error because the references fail to teach or suggest each and every element of the claims. Claim 1 recites the steps of (1) providing a database, each representative recording his/her activities in the database, and (2) providing a number of reports, wherein each report defines a number of unacceptable activity parameters. The Examiner asserts:

Maloney et al. does teach a quality scoring report (26) whereby a quality scoring report would inherently contain a judgment of acceptable and unacceptable parameters due to the fact that a score is provided. A high score would inherently indicate high quality and a high level of acceptable parameters and therefore a low level of unacceptable parameters.

(Emphasis added; see Office Action at page 14, first paragraph under Remarks). Applicants submit that there is no basis for such an interpretation. The only description of "quality",

"scoring", or "icon 26" provided by Maloney et al. appears to be in a single recitation:

Notebook icon 26 represents the quality scoring that the invention makes possible. Based on the information that the preferred embodiment makes available both consistently and equitably, icon 28 represents the result of a supervisor being able to follow up with the call center agent and improve the agent's overall performance quality.

See column 4, lines 14-20. Maloney et al. does not appear to provide any further description of notebook icon 26 or anything related to scoring. Applicants submit that one of ordinary skill in the art would not interpret the generic "quality scoring", with no further description, as anticipating the specific method steps recited in claim 1. The Examiner's assertion that "a quality scoring report would inherently contain a judgment of acceptable and unacceptable parameters due to the fact that a score is provided" does not appear to have any support in Maloney et al. because Maloney et al. do not appear to provide any indication of the basis for the "quality scoring". In fact, a word search of the Maloney et al. patent shows the recitation of "scoring" in column 4, line 14 as the only recitation in the entire document of any form of the word "score". Maloney et al. do not appear to teach anything regarding the basis for the "scoring", thus asserting an inherent property based on the single recitation of "quality scoring" is clearly improper, and one of ordinary skill in the art cannot interpret the method of Maloney et al. as necessarily teaching the method steps of providing a number of reports, each report defining a number of unacceptable, or acceptable, activity parameters, as is recited in independent claims 1 and 13, respectively.

The Examiner also states, on page 14, first paragraph of arguments:

As is well known to those of ordinary skill in the art, a quality score will determine if a product as a whole is considered acceptable or unacceptable and consequently able to be used and/or sold to a customer. Items of low quality are excluded from the inventory of sell-able goods since they are unacceptable for purchase.

Emphasis added. Applicants do not understand how this statement relates to the teachings of Maloney et al. or the claims. Maloney et al. appear to be directed to a system of monitoring the performance of call center service representatives, rather than production of goods or products.

Further, the "reports" of Maloney et al. appear to be related to the number and duration of calls made by agents, but do not, however, appear to include a number of unacceptable activity

parameters, as recited in claim 1. Nor do any of the "reports" of Maloney et al. appear to define parameters, such that when the report is run against the database of activities, each report checks the recorded activities of each representative against the number of unacceptable activity parameters defined in the report, as recited in claim 1.

The Examiner asserts that Maloney teaches, in column 3, lines 14-24, the claimed method step of "each report checking the recorded activities of each representative against the number of unacceptable activity parameters defined in the report" as is recited in claim 1. The cited portion of Maloney et al. appears to teach an automated method of scheduling monitoring sessions, but does not appear to teach anything regarding checking recorded activities of representatives against unacceptable or acceptable activity parameters that are defined in a report. It appears the Examiner is asserting that the claimed method steps could be performed by the system of Maloney et al., which is clearly not a proper basis for rejection.

The Examiner acknowledges that Maloney et al. fail to teach providing a listing of alerts, but asserts that Musafia et al teaches that it is known to provide a listing of alerts for only those activities in a database that fall within the unacceptable activity parameters defined in the number of reports. In particular, the Examiner points to paragraph 61 of Musafia et al. and asserts that the warning indicator presented on the monitor is capable of alerting the user to a system abnormality and that such abnormality would constitute "outside the acceptable" parameters. Musafia et al. do not appear to teach or suggest the claimed step of providing a listing of alerts for only those activities in a database that fall within unacceptable (claim 1) or outside of the acceptable (claim 13) activity parameters defined in the number of reports, as recited in the claims. Musafia et al. appear to teach displaying a warning indicator when any abnormality occurs. See paragraph 61, last sentence. Neither Maloney et al. nor Musafia et al. appear to teach or suggest each and every element of the claims.

The Examiner asserts that the reason to combine Maloney et al. and Musafia et al. is "to provide means for quickly identifying unacceptable parameters and thereby indicating the need for adjustment to improve the overall efficiency of the system." Maloney et al. do not appear to teach identifying unacceptable parameters, but rather appears to be directed to a method of monitoring call center representatives and scheduling the timing of recording the calls.

The only indication of what is considered "acceptable" or "unacceptable" with regard to the call center representatives appears to be based on the judgment of the supervisor when he/she listens to a recorded call. Maloney et al. do not appear to teach anything regarding particular acceptable or unacceptable "parameters". Because the system of Maloney et al. appears to be directed to recording telephone calls for later review by a supervisor, the only determination of whether the representative exhibited "acceptable" or "unacceptable" behavior would be made by the supervisor. The process of a supervisor listening to recorded calls and deciding how to rate a representative appear to be the only determination of "acceptable" or "unacceptable" activity by the representative. Applicants submit that the mental processes of the supervisor cannot be equated with the claimed method step of providing a number of reports where each report defines a number of acceptable or unacceptable activity parameters, or running the number of reports against a database, where each report checks the recorded activities of each representative against the number of unacceptable activity parameters defined in the report. In fact, Maloney et al. do not appear to teach any parameters regarding the representative's actions or duties. It appears that the supervisor reviews the recorded calls and makes a judgment of what he/she feels is the representative's "score." Because Maloney et al. do not appear to teach defining acceptable or unacceptable parameters, there is no motivation for one of ordinary skill in the art to modify the teachings of Maloney et al. with the warning indicator of Musafia et al. The only motivation for combining the teachings of Maloney et al. and Musafia et al. appears to be found in Applicants' own specification, which is clearly improper.

The rejection of claims 2-5, 9, 10, 14-16, and 27 as being unpatentable over Maloney et al. et al. in view of Musafia et al. and further in view of Levine et al. is in error because the Examiner has failed to establish a *prima facie* case of obviousness. Levine et al. do not appear to teach or suggest what Maloney et al. and Musafia et al. lack with regard to the independent claims. Dependent claims 2-5, 9, 10, and 14-16 recite further elements not taught or suggested in Maloney et al., Musafia et al., Levine et al., or a combination thereof.

Claim 10 recites the method step of providing compliance related materials to a user. The Examiner asserts that Levine et al.'s teaching that the user can set up rules is equivalent to compliance materials as they perform an identical function in substantially the same manner with

substantially the same results. The Examiner's interpretation of "compliance related materials" is contrary to the description in the specification. See paragraphs 56 and 78 of the specification. One of ordinary skill in the art would not interpret "compliance related materials" as recited in claim 10 to include a user setting rules regarding notifications of loans, as taught by Levine et al.

Independent claims 14 and 27 recite methods for providing a report used by a supervisor for supervising the activities of a number of representatives who record their activities in a database, involving the steps of identifying one or more unacceptable or acceptable activities. As discussed above, neither Maloney et al. nor Musafia et al. appear to teach or suggest the method step of defining one or more unacceptable or acceptable activities or parameters, and the vaguely stated "quality scoring" of Maloney et al. cannot be deemed to inherently track acceptable and unacceptable parameters. Levine et al. do not appear to teach such method steps.

Regarding claim 15, Levine et al. do not appear to teach a method step of providing an alert for activities of a number of representatives recorded in the database that fall within unacceptable activity parameters defined in the report, as is recited in claim 15. Applicants submit that the loan not falling within a buyer's pre-set rules is not the same as an activity of a representative falling with an unacceptable activity parameter, as is recited in the claim.

The rejection of claims 17-26, and 28 as being unpatentable over Maloney in view of Musafia et al. and Levine et al. and further in view of LaFore et al. is in error. LaFore et al. do not appear to teach a method and system in which representatives are brokers who record their activities. Thus, any combination of Maloney, Musafia and Levine fail to teach each and every element of the claims.

Respectfully Submitted,

Date: May 18, 2007



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